



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

IN THE MATTER OF
MELISSA ANN BENITEZ,
VOCATIONAL NURSE LICENSE NUMBER 315366
AND PETITIONER FOR
ELIGIBILITY FOR LICENSURE

§ BEFORE THE TEXAS
§
§
§
§ BOARD OF NURSING

NUNC PRO TUNC ORDER OF THE BOARD

To: Melissa Ann Benitez
1818 Rogers Rd., Apt #628
San Antonio, TX 78251

An Agreed Order of the Board was entered for Melissa Ann Benitez on April 26, 2018. The Order, however, omitted a necessary phrase from page 3 of the Order relating to the sanction level of the Order. Upon notice and hearing, administrative agencies, like the Courts, have the power to enter nunc pro tunc orders where it can be seen by reference to a record that what was intended to be entered, but was omitted by inadvertence or mistake, can be corrected upon satisfactory proof of its rendition provided that no intervening rights will be prejudiced. *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.--Austin 1962, no writ) (citing *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 276 Ky. 199, 123 S.W.2d 270, 272).

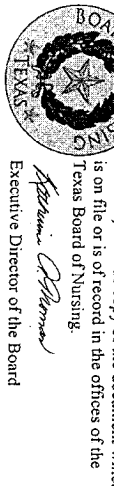
The Executive Director, as agent of the Texas Board of Nursing, after review and due consideration of the record and the facts therein submits and enters the corrected Agreed Order. Respondent received due process regarding her license; therefore, her rights have not been prejudiced.

NOW, THEREFORE, IT IS ORDERED that the corrected Agreed Order of the Board is hereby approved and entered on the dates set forth below.

Order effective April 26, 2018.

Entered this 16th day of May, 2018.

BY: *Katherine A. Thomas*
KATHERINE A. THOMAS, MN, RN, FAAN
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD



BEFORE THE TEXAS BOARD OF NURSING

| | | |
|--|---|--------------------------|
| In the Matter of | § | AGREED ORDER |
| MELISSA ANN BENITEZ, | § | FOR |
| Vocational Nurse License Number 315366 and | § | DISCIPLINE & ELIGIBILITY |
| PETITIONER for Eligibility for Licensure | § | |

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of Vocational Nurse License Number 315366 and the Application by Examination, which has been processed as a Petition for Declaratory Order, hereinafter referred to as the Petition, pursuant to 22 TEX. ADMIN. CODE §217.2(b), and supporting documents filed by MELISSA ANN BENITEZ, hereinafter referred to as PETITIONER, requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(10)&(13) and 301.453, Texas Occupations Code.

PETITIONER waived notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on February 21, 2018.

FINDINGS OF FACT

1. On or about August 24, 2017, PETITIONER submitted the Petition requesting a determination of eligibility for licensure.
2. Petitioner received a Certificate in Vocational Nursing from Galen College of Nursing, San Antonio, Texas, and an Associate Degree in Nursing from National American University,

San Antonio, Texas, in August 2017. Petitioner was licensed to practice vocational nursing in the State of Texas on August 27, 2013.

3. On or about July 1, 2016, through July 29, 2016, while employed as a Licensed Vocational Nurse with Merida Health Care Group, San Antonio, Texas, Respondent failed to submit documentation of skilled nursing visits for patients of the agency. Respondent's conduct resulted in an incomplete medical record, and was likely to injure patients in that subsequent care givers did not have complete information on which to base their decisions for further care.
4. In response to Finding of Fact Number Three (3), Respondent states she was let go due to the company's downsizing in the middle of a pay period, and immediately started with a sister company. Respondent states amongst all of the stress and hassle of switching companies and handling new patients, she did not get a chance to submit the final notes to Merida in a timely manner.
5. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition, past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
6. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
7. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
8. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
9. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
2. On or about August 24, 2017, PETITIONER submitted the Petition requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253,

301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.2(b) and §213.30.

3. The evidence received is sufficient to prove violation(s) of 22 TEX. ADMIN. CODE §217.11(1)(A),(1)(B)&(1)(D) and 22 TEX. ADMIN. CODE §217.12(1)(A),(1)(B),(1)(C)&(4).
4. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(10)&(13), Texas Occupations Code.
5. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
7. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

TERMS OF ORDER

I. SANCTION AND ELIGIBILITY

IT IS THEREFORE AGREED and ORDERED that PETITIONER SHALL receive the sanction of **REMEDIAL EDUCATION WITH A FINE** in accordance with the terms of this Order, and upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is **ELIGIBLE** to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination).

- A. PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse (GN) in the State of Texas.
- B. Upon payment of any required fees and upon attaining a passing grade on the applicable National Council Licensure Examination, PETITIONER shall be issued the applicable license(s) to practice nursing in the State of Texas.

II. COMPLIANCE WITH LAW AND APPLICABILITY

While under the terms of this Order, PETITIONER agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Order.

- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
- B. This Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license(s) will be designated "single state" and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state.

III. REMEDIAL EDUCATION COURSE(S)

In addition to any continuing education requirements the Board may require for licensure renewal, Petitioner SHALL successfully complete the following remedial education course(s) within one (1) year of the effective date of this Order, unless otherwise specifically indicated:

- A. A Board-approved course in Texas nursing jurisprudence and ethics that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study courses and video programs will not be approved.
- B. A Board-approved course in nursing documentation that shall be a minimum of six (6) hours in length. The course's content shall include: nursing standards related to accurate and complete documentation; legal

guidelines for recording; methods and processes of recording; methods of alternative record-keeping; and computerized documentation. Home study courses and video programs will not be approved.

- C. The course “Sharpening Critical Thinking Skills,” a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), Petitioner SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. Petitioner SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

IV. MONETARY FINE

PETITIONER SHALL pay a monetary fine in the amount of two hundred fifty dollars (\$250.00) within forty-five (45) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

V. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Order, all encumbrances will be removed from PETITIONER'S license(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, PETITIONER may be eligible for nurse licensure compact privileges, if any.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application/petition, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including REVOCATION of my license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation by counsel, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.

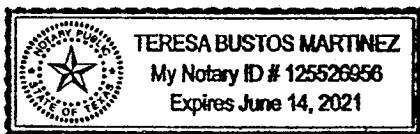
Signed this 11th day of April, 2018.

Melissa Benitez
MELISSA ANN BENITEZ, PETITIONER

Sworn to and subscribed before me this 11th day of April, 2018.

SEAL

Teresa B. Martinez
Notary Public in and for the State of Texas.

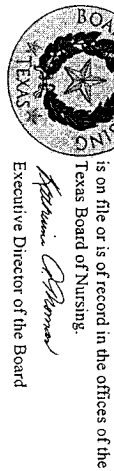


WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order for Discipline and Eligibility that was signed on the 11th day of April, 2018, by MELISSA ANN BENITEZ, Vocational Nurse License Number 315366 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 26th day of April, 2018.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board



BEFORE THE TEXAS BOARD OF NURSING

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PETITIONER waived notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on February 21, 2018.

FINDINGS OF FACT

1. On or about August 24, 2017, PETITIONER submitted the Petition requesting a determination of eligibility for licensure.
2. Petitioner received a Certificate in Vocational Nursing from Galen College of Nursing, San Antonio, Texas, and an Associate Degree in Nursing from National American University,

San Antonio, Texas, in August 2017. Petitioner was licensed to practice vocational nursing in the State of Texas on August 27, 2013.

3. On or about July 1, 2016, through July 29, 2016, while employed as a Licensed Vocational Nurse with Merida Health Care Group, San Antonio, Texas, Respondent failed to submit documentation of skilled nursing visits for patients of the agency. Respondent's conduct resulted in an incomplete medical record, and was likely to injure patients in that subsequent care givers did not have complete information on which to base their decisions for further care.
4. In response to Finding of Fact Number Three (3), Respondent states she was let go due to the company's downsizing in the middle of a pay period, and immediately started with a sister company. Respondent states amongst all of the stress and hassle of switching companies and handling new patients, she did not get a chance to submit the final notes to Merida in a timely manner.
5. Petitioner has sworn that, with the exception of matters disclosed in connection with the Petition, past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.
6. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.
7. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.
8. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.
9. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.
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- A. Until successfully completed, any and all licenses issued to Petitioner shall be subject to the terms of this Order.
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V. RESTORATION OF UNENCUMBERED LICENSE(S)

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PETITIONER'S CERTIFICATION

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In connection with my application, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

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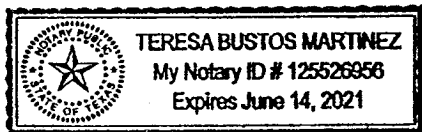
Signed this 11th day of April, 2018.

Melissa Benitez
MELISSA ANN BENITEZ, PETITIONER

Sworn to and subscribed before me this 11th day of April, 2018.

SEAL

Teresa B. [Signature]
Notary Public in and for the State of Texas.



WHEREFORE PREMISES CONSIDERED, the Executive Director, on behalf of the Texas Board of Nursing, does hereby accept and enter the Agreed Order for Discipline and Eligibility that was signed on the 11th day of April, 2018, by MELISSA ANN BENITEZ, Vocational Nurse License Number 315366 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 26th day of April, 2018.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board